THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.858 of 2007

26.2.2007

Between:

Banoth Sakram, S/o.late Bhima

... Petitioner

AND

The District Collector, Khammam
And another

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.858 of 2007

ORDER:

The petitioner is resident of Chinna Thanda H/o.Yedulapuram in Khammam District. He allegedly purchased land admeasuring Acs.1.10 guntas in survey No.142/15 situated in Chinna Thanda under registered sale deed dated 05.6.1976. When there was threat of dispossession, the petitioner filed W.P.No.22246 of 2003. This Court disposed of the said writ petition observing that appropriate authority should follow due process of law. The petitioner alleges that on 29.12.2006 and on 06.1.2007, the second respondent along with the staff came to the property with a view to dispossess the petitioner. Therefore, he filed the instant writ petition seeking writ of Mandamus declaring the action of the second respondent in taking steps to dispossess him from the land in survey No.142/15 as illegal and arbitrary, and for a consequential direction to the respondents not to dispossess him.

The second respondent, the Mandal Revenue Officer (MRO), Khammam Rural Mandal, has filed counter affidavit. While denying that the petitioner is in possession of the property, it is stated that the entire extent of land in survey No.142 village is Government land, which was assigned to several persons in 1970. Having come to know that some of the assignees contravened the conditions of assignment, notices were issued to as many as nine assignees and after considering their explanations, the second respondent issued proceedings No.C-586/2003, dated 01.6.2003, resuming the land admeasuring Acs.6.30 guntas including the land in survey No.142/15. The petitioner is not one of the assignees nor he is in possession of the land. It is further stated that the land was taken possession on 09.11.2004 and was allotted for construction of Kasturibha Gandhi

Balika Vidyalaya. All other allegations made in the writ affidavit are denied.

The petitioner has filed reply affidavit asserting that he is alone in possession of the land admeasuring Acs.0.25 guntas in survey No.142/15, that the land resumed by the MRO is not the land, which is in possession of the petitioner and that dispossession of the petitioner without notice is illegal and arbitrary.

Learned Counsel for the petitioner submits that even as per the counter affidavit, only an extent of Acs.0.25 guntas in survey No.142/15 was resumed by the Government and, therefore, there cannot be any interference by the second respondent in respect of other extent of the land. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that the entire land in survey No.142 is Government land, which was assigned to number of persons and that when nine persons violated conditions of assignment, the land was resumed including the entire extent of land in survey No.142/15.

The petitioner has not placed any acceptable evidence in support of the contention that he is in possession of the land as on the date of filing of the writ petition. Secondly, the averment in paragraph 9 of the counter affidavit that the land has been allotted for construction of Kasrutibha Gandhi Balika Vidyalaya has not been denied. A reading of the reply affidavit would show that the petitioner also admits that the land was resumed but what he contends is that only an extent of Acs.0.25 guntas in survey No.142/15 was resumed and the petitioner is still in possession of balance extent of the land. This is seriously disputed by the learned Assistant Government pleader. This is a question of fact, which cannot be gone into a writ petition. The petitioner has to seek remedy elsewhere.

The writ petition is devoid of merits and is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

February 26, 2007.
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